H.R. 2355, the "Health Care Choice Act"
A Regulatory Nightmare

H.R. 2355, the "Health Care Choice Act" is promoted as a bill that would give consumers access to more affordable health insurance. But it allows insurance companies to discriminate against the sick and avoid more stringent State consumer protection regulations. This bill would also create a regulatory morass and make it easier for unscrupulous health insurers to defraud consumers. At the same time, those with various chronic diseases will soon face unaffordable insurance rates.

1. Creates Regulatory Confusion.

Rather than simplify insurance regulation, this legislation would make it more complex. The insurance laws of the State where the company is licensed would apply in most instances, but in some isolated instances such as in the case of certain kinds of fraud, the State laws where the consumer lives would apply. In other cases, a Federal standard would apply. Regulators, insurers, and consumers would be required to sort through the different layers of regulation to determine to whom and where certain provisions applied. The end result would likely be less effective oversight of insurers.

2. Creates Confusion for Consumers Seeking Recourse Against Bad Actors.

H.R. 2355 would make it difficult for consumers to seek recourse for bad actions by an insurance company located in another State. Today, consumers know to turn to their State office for assistance. Under this legislation, insurers could frequently change the State in which they are licensed. Consumers would have to canvass different States to find out where their policy was regulated at the time their problem occurred. Moreover, having to navigate a State insurance department hundreds of miles away in another State would create significant obstacles for consumers seeking to file complaints.

3. Creates Burdens for Insurance Departments Without Providing Resources to Protect Consumers.

State insurance departments are not equipped to serve residents of other States. Insurance departments do not have the resources to enforce or even monitor the conduct of insurance companies beyond its borders in a secondary State. Under this legislation many consumer complaints or problems would go unaddressed and insurance companies would get away with bad practices with no consequences.

4. Reduces State Ability to Protect Consumers Against Insurance Company Insolvency.

Currently, State insurance commissioners can begin to initiate corrective action when warning signs of financial trouble begin to appear for a particular company. H.R. 2355 would prohibit States from forcing insurance companies to take corrective action in order to protect their residents until it was too late. More insurance companies would default on their obligation to provide benefits and leave consumers without those benefits.

5. Creates Incentives for More Lawsuits.

Currently, when a State finds a financial solvency problem with an insurer, it can initiate corrective action through administrative measures. Under H.R. 2355, States would only be able to protect their residents by initiating an injunction in "a court of competent jurisdiction." This would lead to more court filings and lawsuits and would force States to go to court rather than use alternative non-litigious mechanisms such as license revocation to halt insolvency or defaulting of insurers.

6. Undermines Role of State Legislatures to Protect Citizens.

By allowing insurance companies to choose which State to be licensed in, this legislation would block the ability of State legislatures to enact laws that had stronger protections than those of another State. There would be no incentive for States to pass laws to protect residents if the insurer could just move elsewhere to avoid it. Rather than foster a climate of continual improvement in industry practices, it would encourage companies to locate in areas with the lowest standards.

7. **Discriminates Against In-State Insurers.**

The bill would establish a dual regulatory scheme in which insurers located in the State would face more stringent regulations than out-of-state insurers. Ultimately, insurers would be forced to relocate to States with less stringent regulation in order to compete.